

JUDGE DAVID BRIONES

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

2013 FEB 20 PM 5:06
U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

THE UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
0.012 ACRES OF LAND, MORE OR LESS,) Civil No.
SITUATE IN EL PASO COUNTY,)
STATE OF TEXAS; AND)
JORGE RICO, ET AL.)
Defendants.)

EP 13 CV 0050

**COMPLAINT IN CONDEMNATION
WITH DECLARATION OF TAKING (40 U.S.C. §3114)**

The United States of America, by and through the undersigned Assistant United States Attorney files this Complaint in Condemnation with Declaration of Taking.

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Director, Border Patrol Facilities and Tactical Infrastructure Program Management Office, Facilities management and Engineering, Office of Administration, U.S. Customs and Border Protection, for the taking of property under the power of eminent domain through a Declaration of Taking and for the determination and award of just compensation to the owners and parties in interest of the property taken.

2. The authority for the taking of the land is under and in accordance with the authorities set forth in Schedule "A" attached hereto and made a part hereof.

3. The public purpose and use for which said property is taken is set forth in Schedule "B" attached hereto and made a part hereof.

4. A general description of the land being taken is set forth in Schedule "C" attached hereto and made a part hereof. A plan showing the property being taken is shown on Schedule "D" attached hereto and made a part hereof.

5. The interest(s) being acquired in the property is described in Schedule "E" attached hereto and made a part hereof.

6. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule "G" attached hereto and made a part hereof.

7. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and payable.

8. In addition to those persons named, there are or may be others who have or may have some interest in the property or interests to be taken, whose names are unknown to the Plaintiff, and such persons are made parties in the action under the designation "Other Interested Parties."

9. All conditions precedent have occurred or been performed.

10. An Ex Parte Motion for Immediate Possession of the property is filed with this complaint, and the Court is respectfully referred to the motion and requested to immediately grant possession of the easements now owned by the United States for the reasons stated in that motion.

WHEREFORE, Plaintiff demands judgment that the property and interests be condemned, and that just compensation for the taking be ascertained and awarded, and such other relief as may be lawful and proper.

ROBERT PITMAN
UNITED STATES ATTORNEY

BY:


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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

JUDGE DAVID BRIONES

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
0.012 ACRES OF LAND, MORE OR LESS,)
SITUATE IN EL PASO COUNTY, STATE)
OF TEXAS; AND JORGE RICO, ET AL.)
Defendants.)

AY DEPUTY
DECLARATION
OF
TAKING

EP 13 CV 0050

CIVIL NO.

I, Loren Flossman, Director, Border Patrol Facilities and Tactical Infrastructure Program Management Office, Facilities Management and Engineering, Office of Administration, U.S. Customs and Border Protection, Department of Homeland Security, under the authority delegated to me by the Act of Congress, approved November 25, 2002, as Public Law 107-296, 116 Stat. 2311 and codified at 6 U.S.C. Sections 202, 251, 551, and 557, which transferred certain authorities of the Attorney General to the Secretary of Homeland Security; and by DHS Delegation No. 7010.3(II)(B), which delegated land acquisition authority from the Secretary of Homeland Security to the Commissioner of U.S. Customs and Border Protection; and by CBP Delegation 08-004, which delegated land acquisition authority to the Executive Director, Facilities Management and Engineering, and by CBP Delegation 09-003, which further delegated land acquisition authority under \$3 million dollars to the Director, Border Patrol Facilities and Tactical Infrastructure Program Management Office, Facilities Management and Engineering, do hereby declare that:

1 1. The property is hereby taken under and in accordance with the authorities set forth in
2 Schedule "A" attached hereto and made a part hereof.
3

4 2. The public purpose for which said property is taken is set forth in Schedule "B"
5 attached hereto and made a part hereof. The said land has been selected under my direction for
6 acquisition by the United States for the above-referenced project in El Paso County, State of
7 Texas.
8

9 3. A legal description of the property being taken is set forth in Schedule "C" attached
10 hereto and made a part hereof.
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12 4. A survey depicting the property being taken is set forth in Schedule "D" attached
13 hereto and made a part hereof.
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15 5. The estate taken is described and set forth in Schedule "E" attached hereto and made a
16 part hereof.
17

18 6. The sum estimated by the undersigned as just compensation for the property being
19 taken is set forth in Schedule "F" attached hereto and made a part hereof. The undersigned is of
20 the opinion that the ultimate award of just compensation for said property probably will be
21 within any limits prescribed by law to be paid therefore.
22

1 7. The names and addresses of known parties having and/or claiming an interest in said
2 property are set forth in Schedule "G" attached hereto and made a part hereof.
3

4 8. The United States made best efforts to negotiate purchase of the property interest
5 sought prior to filing this condemnation action.
6

7 **IN WITNESS WHEREOF**, the undersigned Director, Border Patrol Facilities and
8 Tactical Infrastructure Program Management Office, Facilities Management and Engineering,
9 Office of Administration, U.S. Customs and Border Protection, Department of Homeland
10 Security, hereunto subscribes his name by direction of the Secretary of the Department of
11 Homeland Security, this 12 day of February, 2013 in the City of Washington, District of
12 Columbia.
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16 LOREN FLOSSMAN
17 Director, Border Patrol Facilities and Tactical Infrastructure
18 Program Management Office
19 Facilities Management and Engineering
20 Office of Administration
21 U.S. Customs and Border Protection
22 Department of Homeland Security
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SCHEDULE "A"
AUTHORITY FOR THE TAKING

The property is taken under and in accordance with the Act of Congress approved on February 26, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 28, 2009, as Public Law 111-83, Title II, 123 Stat. 2145, which appropriated the funds which shall be used for the taking.

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2 **SCHEDULE "B"**
3 **PUBLIC PURPOSE**

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5 The public purpose for which said land is taken is to facilitate the construction,
6 installation, operation, and maintenance of roads, fencing, vehicle barriers, security lighting, and
7 related structures designed to help secure the United States/Mexico border within the State of
8 Texas.
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SCHEDULE "C"
LEGAL DESCRIPTION

Tract: EPT-EPS-102 Owner: Jorge Rico Acres: 0.012

Being a 0.012 acre (534.00 Square Feet) lot situated in the corporate limits of the City of El Paso, County of El Paso, State of Texas, situated within the Werthmann Subdivision, an Addition to the City of El Paso, Book 6, Page 52 Real Property Records, City of El Paso, County of El Paso, State of Texas, being more particularly described as follows:

Commencing at an existing Highway Marker, Highway Station 71+22.5 (as shown on International Boundary Commission Survey Map, dated 7/28/1936, on the old monument line for U.S. Highway 80A, (also known as Paisano Drive), having State Plane Coordinates (Northing = 10660456.526, Easting = 3774435.554);

Thence, S 18°34'31" E, along said monument line, 750.68 feet to a point, having State
Plane Coordinates (Northing = 10659744.952, Easting = 377674.683);

Thence, S 75°01'50" W, departing said monument line, a distance of 49.07 feet to an "X" chiseled on top of a wall on the westerly Right of Way Line of said U.S. Highway 80A as described in Deed filed for record in Book 1675, page 375, Real Property Records of El Paso County, El Paso, Texas, having State Plane Coordinates (Northing = 10659732.277, Easting = 377627.279);

Thence, N 18°34'31" W, along said westerly right of way line, 74.39 feet to the Point of

1 Beginning having State Plane Coordinates (Northing = 10659802.796, Easting = 377603.584);
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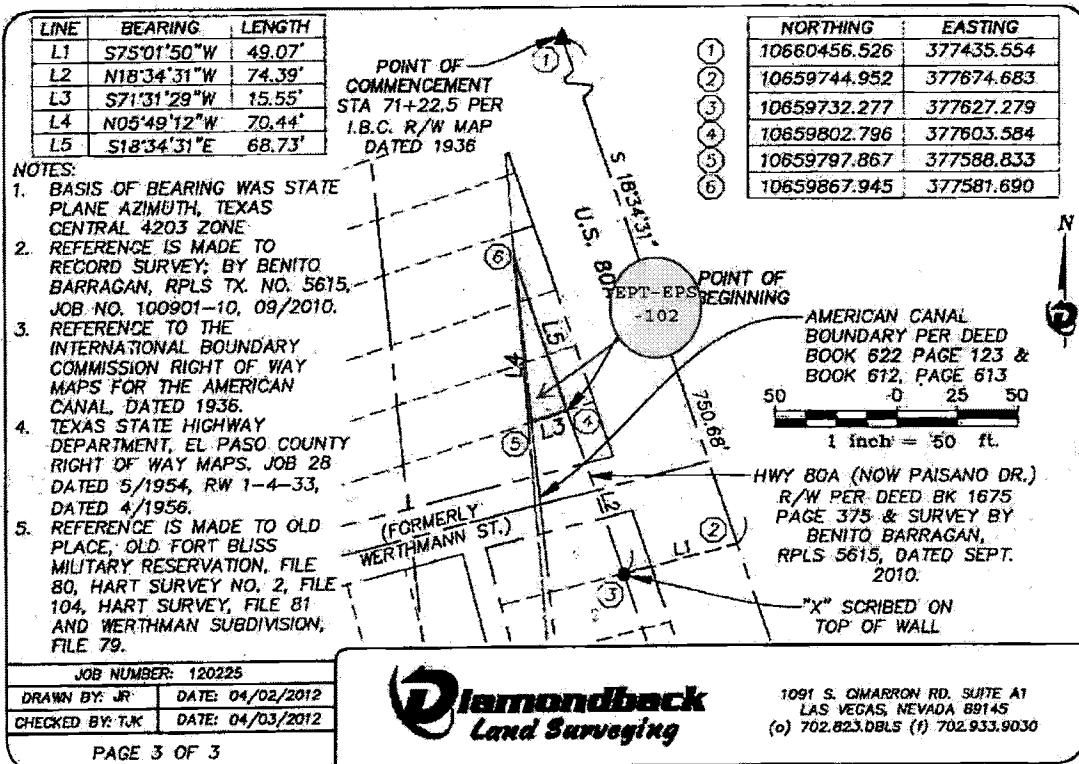
3 Thence, S 71°31'29" W, departing said westerly right of way, 15.55 feet to a point on the
4 easterly right of way line of the American Canal as described in Deed filed for record in Book
5 622, page 123 and in Book 612, page 613, Real Property Records of El Paso County, El Paso,
6 Texas, having State Plane Coordinates (Northing = 10659797.867, Easting = 377588.833);
7

8 Thence, N 05°49'12" W, along said easterly right of way, 70.44 feet, having State Plane
9 Coordinates (Northing = 10659867.945, Easting = 377581.690);
10

11 Thence departing said right of way, S 18°34'31" E, a distance of 68.73 feet to the Point
12 of Beginning, having State Plane Coordinates (Northing = 10659802.796, Easting =
13 377603.584) and containing an area of 0.012 acre (534.00 square feet), more or less.
14

SCHEDULE "D"

Tract: EPT-EPS-102 Owner: Jorge Rico Acres: 0.012



**SCHEDULE "E"
ESTATE TAKEN**

Tract: EPT-EPS-102 Owner: Jorge Rico Acres: 0.012

The fee simple title to the land, subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all minerals, in and under said land and all appurtenant rights for the exploration, development, production and removal of said minerals, but without the right to enter upon or over the surface of said land for the purpose of exploration, development, production and removal therefrom of said minerals.

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2 **SCHEDULE "F"**
3 **ESTIMATE OF JUST COMPENSATION**

4 The sum estimated as just compensation for the land being taken is **ONE THOUSAND**
5
6 **TWO HUNDRED DOLLARS (\$1,200.00)**, to be deposited herewith in the registry of said
7
8 Court for the use and benefit of the persons entitled thereto.
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SCHEDULE "G"
NAMES AND ADDRESSES ON INTERESTED PARTIES

Jorge Rico
Address unknown, Publication Required

Last known address:
2024 Paisano Drive
El Paso, Texas 79903

El Paso County Tax Assessor
500 E. Overland Avenue
Suite 101
El Paso, Texas 79901